



New Jersey Department of Children and Families Policy Manual

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| Manual: | CP&P | Child Protection and Permanency | Effective Date: |
| Volume: | III | Case Management | |
| Chapter: | E | Case Records and Archives | 4-1-2013 |
| Subchapter: | 2 | Expunction | |
| Issuance: | 100 | Expunction of Records | |

Purpose 4-1-2013

This policy section discusses the criteria and process for the expunction or retention of information associated with electronic and paper records that document CP&P or IAIU investigations that resulted in unfounded reports. Expunction of records is authorized by State statute, administrative code, and DCF policy. "A record scheduled for expunction shall be expunged in its entirety." N.J.A.C. 10:129-8.1(a)

"The Department shall limit routine expunction of records to those which consist of unfounded reports for which the finding was made on or after the April 7, 1997 enactment of N.J.S.A. 9:6-8.40a." N.J.A.C. 10:129-8.2(c)

Authority 2-6-2012

N.J.S.A 9:6-8.40a, Unfounded Allegation of Child Abuse to be Expunged from Division's Records, enacted April 7, 1997.

N.J.A.C. 10:129-8, Expunctions.

Definitions 12-19-2011

- "Expunction means the destruction, erasure and complete eradication of a record and applies to the destruction of computer files and corresponding paper files." (N.J.A.C. 10:129-1.3.)
- "Retain" or "Retention" means to maintain information associated with a record of a CP&P or an IAIU investigation "live" in the NJ SPIRIT application (i.e., the electronic case record) as well as in the corresponding "paper" case record.

- “Expunction Designee” means the staff person designated to conduct the NJ SPIRIT on-line expunction validation process and paper expunction review on behalf of their respective CP&P Local Office, Local Office Resource Family Support Unit, or IAIU Regional Office.
- If information associated with a record of a CP&P or an IAIU investigation is approved for expunction, the Expunction Designee ensures that the corresponding “paper” record is also destroyed.
- “Expunction Supervisor” means the supervisor responsible for approving the expunction activities of the Expunction Designee.
- “Area Expunction Designee” is the supervisor, designated by the DCF Area Director, to approve the shredding of information approved for expunction by the CP&P Local Office. The Area Expunction Designee is also responsible for notifying a Local Office Manager when his or her office has an Expunction Designee “vacancy” which must be filled in a timely manner.
- “Expunction Directors” are staff persons designated by CP&P Central Office and the Office of Information Technology (IT) to assist with managing routine expunction:

The CP&P Expunction Director serves as the liaison between CP&P Central Office and Area and Local Offices. The IT Expunction Director provides technical assistance and support statewide.

- “Routine Expunction Review” means a review of the list, generated monthly by NJ SPIRIT, of CP&P and IAIU records which appear to meet the expunction criteria. A Routine Expunction Review is conducted by the Expunction Designee.
- “On-Demand Expunction Review” refers to NJ SPIRIT’s capability of allowing an authorized user to review an unfounded report “On-Demand” for record expunction/retention determination purposes, separate from the monthly “routine” expunction review list generated by NJ SPIRIT.
- “Record,” or “File,” for the purpose of this policy, means information maintained in any format - electronic, paper, or both electronic and paper - associated with an investigation which resulted in a finding of “unfounded.”

For IAIU, the “record” is the entire IAIU investigation file (containing SCR’s Screening Report, DCF Form [1-1](#), coded CPS-IAIU; the Investigation Summary, DCF Form [2-1](#); Contact Activity Notes; collateral information other written reports evidence; etc.). The IAIU record may contain more than one Screening Summary, corresponding Investigation Summary,

etc., if more than one incident regarding an alleged perpetrator was reported and investigated by IAIU.

Note: For purposes of this expunction policy Facility Records, maintained by IAIU, records maintained by the DCF Office of Licensing, Child Care and Youth Residential, and Resource Home Records, maintained by the Local Office Resource Family Support Unit (RFSU), are not included in the definition of a “record” subject to expunction.

- “Electronic Case Record” means the NJ SPIRIT on-line electronic case record.
- “EClient Database” means the electronic database where “closed records” are stored by DCF in a “scanned” format. When the CP&P Local Office determines that a case meets the criteria for expunction, complete DCF Form [19-33](#), Interoffice Expunction Authorization Memo, and send it to the Records Management Unit to authorize the “scanned” record to be expunged from the EClient Database. See policy at Overview, below.
- “DocuSafe” means the contracted vendor where the original paper version of a closed case record is stored. When the CP&P Local Office determines that a case meets the criteria for expunction, complete DCF Form [19-33](#), Interoffice Expunction Authorization Memo, and send it to the Records Management Unit to authorize expunction of the record from the DocuSafe system files. See policy at Overview, below.
- “Unfounded Report” means a written report, recorded electronically and/or on paper, contained within the CP&P case record, or IAIU facility or incident file, in which it is stated that a Worker (i.e., the assigned CP&P Worker or the IAIU Investigator, upon consultation with his or her Supervisor), after conducting a comprehensive investigation, is unable to document by a preponderance of evidence that a child has been abused or neglected and has, therefore, made a finding of “unfounded.”

For purposes of expunction policy, an “unfounded report” includes all information regarding or related to the allegation, investigation, gathering of collateral information, assessment of service needs, case conferencing, and the official agency finding determination.

Two Types of Expunction Reviews, Routine and On-Demand 4-5-2010

There are two different ways by which an expunction review may be initiated:

1. Routine Expunction Review, which is initiated by NJ SPIRIT on a monthly basis. See Routine Expunction Review below.

2. On-Demand Expunction Review, which is initiated by the written request of an alleged perpetrator. See On-Demand Expunction Review below.

Expunction Review Time Frame - 30 Calendar Days 4-5-2010

The time frames for determining if a record is to be expunged or retained are as follows:

- The Expunction Designee strives to make each Routine Expunction Review expunction determination within 30 calendar days of receipt of the tickler indicating that the case is included in that month's NJS electronic listing.
- The time frame for determining whether to expunge or retain an unfounded report in follow-up to an On-Demand Expunction Review is within 30 calendar days of receipt of the request to expunge.
- Shred "paper" records within 30 calendar days of commencing either type of expunction review. See Destroying "Paper" Records of Unfounded Reports (Shredding) below.

Expunction Criteria 4-1-2013

The Expunction Designee conducts a review of both the paper record and the on-line record (i.e., the NJ SPIRIT electronic case record), to determine if information should be expunged or retained by DCF. Review the paper record first, then review the NJ SPIRIT record.

The same expunction criteria apply to both Routine and On-Demand Expunction Reviews. Only a record of an Unfounded report meeting all of the following criteria shall be approved for expunction. Any record of an Unfounded report not meeting all of the criteria is retained rather than expunged.

Expunction criteria include:

1. All CPS reports have a finding of "Unfounded."
2. There are no current CPS allegations or child welfare service requests pending, i.e., no current CP&P, IAIU, or PDCIU investigation is underway or pending at the State Central Registry (SCR), and there are no CWS referrals or requests for services recently assigned by SCR or pending at SCR.
3. No household member is a Substantiated perpetrator of child abuse or neglect, an Established perpetrator of child abuse or neglect, or a person

known in a Not Established report in any CP&P, IAIU, or Public Defender Conflict Investigation Unit (PDCIU) case, whether in open or active case status or closed. The Expunction Designee conducts perpetrator checks and other inquiries in NJ SPIRIT.

4. Passage of three years:
 - A. For an investigation conducted by CP&P (or the PDCIU on behalf of CP&P), at least three years must have passed since the date of the last case closure.
 - B. For an investigation conducted by IAIU (or the PDCIU on behalf of IAIU), at least three years must have passed since the date of the last finding of Unfounded
 - C. When a Substantiated finding of child abuse or neglect has been changed to “Unfounded” based on an appeal or dispute resolution, at least three years must have passed since the date of the agency’s official written notification to the appellant of the change in the investigation finding determination from “Substantiated” to “Unfounded.”
5. Neither CP&P nor IAIU (or the PDCIU acting on behalf of either CP&P or IAIU) is providing any services associated with, or as a direct result of, the investigation that resulted in the finding of “Unfounded.”
6. If IAIU instituted a Corrective Action Plan to address concerns associated with the investigation, the Corrective Action Plan shall be viewed as a “service,” whereby the IAIU investigation file shall be retained rather than expunged, until the service has ended and three years have passed since IAIU closed its case.
7. For children who CP&P placed out of home, the CP&P case record is not subject to expunction, based on the direct provision of services by CP&P.
8. There is no current or pending court action, i.e., no current or pending litigation, litigation on hold, or appeal which would require the record to be retained. Note: To determine if this criterion is met, click on the “appeals” icon in NJ SPIRIT. Consult the Litigation Specialist.
9. There is neither a court order for retention, nor a request from the Commissioner of the Department of Children and Families, or his or her designee, directing retention of the record.

A record of an Unfounded report which does not meet **all** of the expunction criteria shall be retained in the NJ SPIRIT on-line application until such time as it meets either the expunction or archive criteria.

“Not Substantiated” was eliminated as a finding determination for all CPS reports received on or after April 1, 2005. Reports and cases associated with any such finding made prior to that date are **not** subject to expunction.

“Established” and “Not Established” were adopted as DCF investigation findings effective April 1, 2013. Reports associated with **either** finding are **not** subject to expunction.

Expunction of Records Containing Multiple “Unfounded” Reports

4-5-2010

CP&P Records

If, during the three years prior to the CP&P unfounded report being eligible for expunction, subsequent CPS reports are received regarding the child or family, and each subsequent report is likewise unfounded, the original report, and each subsequent report, shall be expunged three years after the most recent case closure date.

IAIU Records

If, during the three years prior to the IAIU unfounded report being eligible for expunction, subsequent CPS reports are received regarding the same alleged perpetrator, and IAIU determines that **each** subsequent report is likewise unfounded, the original report and each subsequent report shall be expunged from IAIU paper files and NJ SPIRIT three years after IAIU’s most recent finding of “unfounded.”

When to Retain Rather than Expunge a Record

4-5-2010

When a record does **not** meet the criteria for expunction, the Division shall retain rather than expunge the record. See Expunction Criteria above.

A referral, application, or inquiry coded “**Information and Referral**” (I & R), “**No Action Required**” (NAR), or “**Information Only**” (IO) by SCR has no bearing on the expunction or retention of its corresponding CP&P or IAIU record.

If a case, named in the current month’s NJS expunction list (i.e., appearing on the Expunction Designee’s desktop), is the subject of a new CPS report or CWS referral at screening, then:

- The new report or referral is linked to the existing case in NJ SPIRIT, and the report is retained in the NJS application; or
- If the new CPS report or CWS referral is received on a case that was - or should have been - reviewed and approved for expunction based on the

stated time frames within this policy, before the record was actually expunged from the system, a “new” case number is assigned in NJ SPIRIT, and the agency proceeds with expunging the original record.

Exceptions 4-5-2010

If, for any reason, the Local Office Manager or the Director of IAIU seeks to retain a record of an unfounded report which meets the criteria for expunction, the Local Office Manager or the Director of IAIU writes a justification memo, and routes it, as applicable, through their respective chain of command, to the Commissioner of the Department of Children and Families for review and approval.

Court Order to Expunge 4-5-2010

Upon receipt of a Court Order to expunge:

- DCF shall follow the Court Order and expunge; or
- If DCF questions the Court Order, the agency takes action, as appropriate and necessary, to appeal the ruling.

Corrections 4-5-2010

If corrections are needed to the NJ SPIRIT record in order to proceed with the expunction review, notify the NJS Help Desk. **After** the correction(s) has been made in NJ SPIRIT, proceed with the expunction review process, applying the expunction criteria.

If a CPS report or a CWS referral is linked to a record that is approved for expunction, the Expunction Designee consults the Expunction Supervisor. Contact IT to correct the problem and delink the appropriate report or referral information, as applicable.

Routine Expunction Review

Overview 12-19-2011

Routine Expunction Reviews for both CP&P and IAIU records begin with NJ SPIRIT automatically selecting records which appear to meet the expunction criteria for the given calendar month. See Expunction Criteria, above. NJ SPIRIT then automatically sends a tickler notification to the NJ SPIRIT desktop of all Expunction Designees statewide. Each Expunction Designee is responsible for reviewing those records identified in his or her office within the prescribed time frame. See Expunction Review Time Frame – 30 Calendar Days above. Each Expunction Designee is responsible for reviewing each paper and corresponding

NJ SPIRIT electronic record identified as a candidate for expunction. **For reviews concerning resource family homes, IAIU, RFSU, and OOL staff consult in making the expunction or retention determination.**

To request a closed record which has previously been sent to Closed Records for storage, go to: <http://dyfshome.dyfs.dhs.state.nj.us/CloseRecord/CRlist.asp> once on this page click on Add then fill out the form.

When the Records Management Unit sends the case record to the Local Office for Expunction Review, they will also include DCF Form [19-33](#), Interoffice Expunction Authorization Memo, which is used when the record is approved for expunction, authorizing Records Management to remove the record from **all** closed record systems where it may exist.

If, upon supervisory review, the record is approved for expunction, the Expunction Designee clicks the “expunge” checkbox in the NJ SPIRIT Expunction Window. The Expunction Designee then takes the steps necessary to **ensure that all “paper” versions of the record of an unfounded report are also destroyed.** See policy at Destroying “Paper” Records of Unfounded Reports (Shredding) below. The Local or Area Office completes DCF Form [19-33](#), Interoffice Expunction Authorization Memo, and sends it to the Records Management Unit to authorize removal of the record from **all** Record Management systems where it may exist, as applicable, i.e., DocuSafe (paper version), EClient (electronic “scanned” database), and/or microfilm.

If, upon review, the record does not meet the expunction criteria, the Expunction Designee checks the reason(s), as applicable, on the NJ SPIRIT Expunction Window. Multiple reasons for retention may be selected. The record will be retained in the NJ SPIRIT on-line electronic system until such time as it is again eligible for Routine Expunction Review. Send the “paper” case record back to Records Management, as per normal Records Management procedures.

If the reason to retain is not found in one of the checkboxes, select “other” and enter the reason(s). **Retention of a record for “other” reasons requires the approval of the Local Office Manager or the Director of IAIU.** The Worker documents the approval in a Contact Activity Note in NJS.

No new intakes can be linked to a case in NJ SPIRIT once it is selected for expunction until a decision to “retain” is entered into NJS and approved.

Direct expunction case practice questions to the appropriate case practice staff at the Local, Area, or CP&P Central Office. Direct any NJS technical questions regarding expunction to the NJ SPIRIT Help Desk.

Scope of Expunction 4-5-2010

A record meeting the criteria for expunction, and approved by the Expunction Supervisor, shall be expunged in its entirety - i.e., both the written incident report (the unfounded report) and the corresponding case record, in all paper and electronic systems maintained by DCF, shall be destroyed, eradicated, erased, and deleted - including documentation of:

1. The identity of case participants, i.e., the alleged perpetrator, the alleged child victim, the non-offending parent(s), other members of the child's family or household, and the reporter. Note: Expunction of identifying information is confined to the specific record which was approved for expunction.
2. Information gathered and documented during the screening of the report by SCR.
3. Information gathered during the CPS investigation, including reports, evaluations, documentation of collateral contacts, etc.
4. The determination of findings.

NJ SPIRIT Expunction Screen 4-5-2010

For a detailed description of how to conduct the NJ SPIRIT on-line expunction validation process, see the NJ SPIRIT Knowledge Web, How Do I Guide for Expunction. Direct questions regarding routine expunction to the NJ SPIRIT Help Desk, by either telephone or e-mail.

If a Case Record Can Not Be Located 4-5-2010

If a paper case record cannot be located, the Expunction Designee, with the assistance his or her Supervisor or Head Clerk, as needed, makes all reasonable efforts to locate the case record, including:

- Contact DocuSafe records storage at <http://www.docusafe.com> (contact number and email are on the webpage);
- Contact the assigned Worker or Supervisor who closed the case, if possible;
- Contact all Local Offices in the Area Office catchment in which the case was closed;
- Contact all Local Offices reasonably thought to have any information as to the record's location.

If all efforts to locate the case record are unsuccessful, the Expunction Designee conducts a review of the electronic case record. Absent any information that the case record does not meet the criteria for expunction, consult the Expunction Supervisor, and approve the record for expunction. Not being able to locate a case record is not, in and of itself, sufficient justification to retain rather than

expunge the record.

The CP&P Local Office provides information regarding paper case files which cannot be located to the Area Expunction Designee, who maintains a list of “missing” records. If the case record is later found, the Area Expunction Designee directs that the record be destroyed, and completely removes the case name, and all other identifying information, from the list.

Storage of Records with Unfounded Reports 4-5-2010

The Local Office shall keep possession of (i.e., store at the Local Office, if space is available) closed case records which consist of an unfounded report(s) for **three years** after the case was last closed.

The DCF Institutional Abuse Investigation Unit maintains its own “paper” files.

On-Demand Expunction Review

Designated Authority for On-Demand Expunction Reviews 4-5-2010

A request for expunction of a record must be made in writing to the Department of Children and Families. DCF will direct the request to the designated authority as follows:

- If the unfounded incident was investigated by a CP&P Local Office, send the request to the respective Local Office Manager, for handling by the Local Office.
- If the unfounded incident was investigated by IAIU and involves a Resource Parent, send the request to expunge to the respective Local Office Manager, for handling by the Resource Family Support Unit, upon consultation with IAIU (required) and the Office of Licensing (OOL).
- If the unfounded incident concerns an adoptive home, forward the request to expunge to the Deputy Director for Adoption Operations.
- If the unfounded incident concerns an institution, facility, or setting investigated by IAIU other than a resource family home, send the request to expunge to the Director of IAIU. (See definition of “institution” at [IAIU-I-A-1-100](#), Key Definitions.)
- If the unfounded incident occurred before the April 7, 1997 enactment of N.J.S.A. 9:6-8.40a, forward the request to expunge to the CP&P Closed Records Liaison, PO Box 717, Trenton, New Jersey 08625-0717 (Cost Center # 933). Forward a copy of the request to the Office of Legal Affairs, CC# 910.

The expunction of any record which contains a report that the Division determined was unfounded prior to April 7, 1997 (if approved for expunction) shall be limited to its computer files only.

Policy Guidelines for On-Demand Expunction Review 4-1-2013

Reports associated with abuse/neglect investigations determined to be **“Substantiated,” “Established,”** or **“Not Established”** are **always retained** by CP&P and IAIU and are not eligible for expunction review.

Reports associated with abuse/neglect investigations determined to be **“Not Substantiated”** - a finding determination discontinued April 1, 2005 - are likewise **retained** in DCF files.

Policy for an On-Demand expunction review is as follows:

- All the criteria for expunction must be met. See Expunction Criteria above.
- Upon receipt of a request for a review, the specified expunction authority or designee shall do the following:
 - Obtain the “paper” record of the Unfounded report. Review both the paper and electronic records;
 - Make a determination based on policy at Routine Expunction Review above, and subsection Expunction Criteria above; the facts of the incident; N.J.S.A. 9:6-8.40a; and the circumstances of the CP&P case history and/or the IAIU investigation;
 - Within 30 calendar days of receipt of the request, the designated expunction authority advises the person who made the request, in writing, of the decision to expunge or retain information, and the reasoning behind the decision.

If the expunging authority approves the **expunction**, proceed with expunging the record from NJ SPIRIT and shredding the “paper” record; see NJ SPIRIT Expunction Screen above, and Destroying Paper ;Records of Unfounded Reports (Shredding) below.

Any Unfounded report which pre-dates the April 7, 1997 enactment of N.J.S.A. 9:6-8.40a is **not** subject to a Routine Expunction Review. Any written request to expunge an Unfounded report which pre-dates April 7, 1997 is handled through the On-Demand expunction review process, explained herein.

Destruction of “Paper” Records of Unfounded Reports 4-5-2010

When a record of an unfounded report is approved for expunction by the Local Office Expunction Designee, the approval of the Expunction Supervisor **and** the Area Office Expunction Designee are required, **before** the paper record is shredded.

When an **IAIU unfounded report** is approved for expunction, the entire paper IAIU investigation file, including the unfounded report and all information regarding the report, the investigation (including collateral contacts), and the finding determination shall be expunged - removed and shredded - from IAIU files.

Shred Record at Local Office or IAIU Regional Office 12-19-2011

Each CP&P Local Office and each IAIU Regional Office has been issued a secure, locked dumpster for materials identified for shredding. Place each record that has been approved for expunction in the Local Office or IAIU Regional Office dumpster to be shredded.

Ensure that all “paper” versions of the record are destroyed. See Overview above.